

REMARKS

Summary

Claims 1-24 are pending and all of the claims were rejected in the present Office action. Claims 1, 6, and 12 were amended and new Claim 25 introduced. The Applicants have carefully considered the references and the arguments presented in the Office action, and respectfully submit that a *prima facie* case of obviousness has not been made out.

Objections

FIG. 1 was objected to under 37 CFR § 1.83(a) as failing to label boxes (2, 4, and 7-10) in the figure as described in the specification. The present application is a national stage filing of a PCT application under 35 U.S.C. § 371 and 35 CFR § 1.495. According to MPEP1893.03(f):

The drawings for the national stage application must comply with PCT Rule 11. The USPTO may not impose requirements beyond those imposed by the Patent Cooperation Treaty (e.g., PCT Rule 11). However, the examiner does have the authority to require new drawings if the drawings were published without meeting all requirements under the PCT for drawings.

When making the objection, the Examiner did not specify in what manner the drawings were not in conformance with PCT Rule 11. As such, the Applicants respectfully request that the objection be withdrawn.

Rejections

35 U.S.C. § 112, second paragraph

Claims 6-17 and 21-24 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite. In particular, Claims 6 and 12 were rejected as having insufficient antecedent basis for a limitation in each claim. The Applicants express appreciation to the Examiner for calling attention to these formal errors and have amended the claims to obviate the rejections.

35 U.S.C. § 103(a)

Claims 1-2, 6-9, 13, 16, 19 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Davies et al. (US 6,753,790; "Davies") in view of Rodriguez et al. (US 7,120,922; "Rodriguez"). The Applicants respectfully traverse the rejections on the basis that a *prima facie* case of obviousness has not been made out.

The Office action characterizes Davies as disclosing a target device having a radio receiver (120) and a remote controller (100). Davies is asserted to have a detector (220) to make a selection of operating system according to the range of the remote control with respect to a feedback range (i.e., threshold value). Moreover, when the feedback range is less than the threshold value, the remote controller operates in an IR mode and when the feedback range value is greater than the threshold value, the remote controller operates in an RF mode. (Office action, pages 4-5).

"Feedback" may be obtained from the remote controller (col. 1, lines 48-50) when the target device cannot provide "feedback" directly by audio or visual means. Feedback from the target device (the TV) is obtained when there is a clear line-of-sight between the remote controller and the target, so that the user can obtain visual or aural feedback from the target device directly. (col. 1, lines 24-30). The term "target device feedback range" refers to that range where the user is sufficiently

close to the TV to obtain the "feedback" from the target device, without aid from the remote controller.

The detector (220) is a means of estimating whether the remote controller is within the "target device feedback range". If the remote controller is out of the target feedback range the user interface [of the remote controller] provides feedback that the control signal was successfully sent to, and executed by, the target device (the TV)" emphasis added. (col. 1, lines 59-62). So, whatever the command, and however it is sent, feedback is provided. When within the "target device feedback range", the feedback is provided directly to the user by aural or visual means by the TV, and not through the remote controller, while when the user is outside the "target device feedback range", the feedback is provided by receiving a signal from the target device indicating successful execution of the command and is displayed by the remote controller. There is no teaching or suggestion that there are two sets of commands.

As such, the reference discloses that the type of the commands (command set) being sent from the remote controller to the TV is not changed as a function of the feedback range value. Only the nature of the feedback provided to the user changes as a function of feedback range value. There is therefore only one "command set" taught by Davies. To add additional "command sets" to the apparatus taught by Davies, is to use the inventors claims as a template for constructing an apparatus, and this constitutes hindsight.

If the apparatus of Davies was altered to have a second command set, based on the value of a reception parameter, the apparatus taught by Davies for controlling a TV would have different control functions depending on the range to the TV, and there is nothing to suggest that this would be useful. A person of skill in the art would not consider the alteration as being useful for the intended purpose.

The Office action accepts that Davies did not [explicitly] disclose a first non-safety critical command set and a safety-critical command set and depends on Rodriguez to overcome this deficiency.

Rodriguez is asserted to teach a set of operating commands for a TV that is used in a parental control mode or in a standard mode (Office action pages 5-6) where "the operating unit is usable in the parental control modewhen the valid password command is entered...." [emphasis added]. This asserted required functionality of the reference is not found in the recitation of Claim 1. The parental control mode of Rodriguez is a password-protected function that is intended to be controlling at any range from the TV. Therefore a device having a parental control mode that was disabled when the control unit was, for example, far from the TV and enabled when the control unit was near the TV would be of little use in controlling the mode of access to the TV. Similarly, if the parental control mode was enabled when the device was far from the TV and disabled when the control unit was close to the TV, a similar lack of utility in performing a parental access control would occur.

For at least the reasons set forth, there would be no advantage for a person of skill in the art to combine the teachings of the two teachings, and a *prima facie* case of obviousness has not been made out.

Claim 2 is independently allowable. The Office action identifies a select key (420) or a confirm key (471) as the "confirmation device". Both the select key and the confirm key of the reference are "soft" keys having a programmable function. Neither of the keys appears suitable for entering the "valid password command" disclosed in Rodriguez for enabling the "parental control mode", which the Office action identifies as the "safety critical command set". As such, Rodriguez does not teach the subject matter of Claim 2, and the claim is not obvious, as not all of the elements and limitations of the claim are found in the combination of the references.

Claims 2-5, and 18-20, being claims dependent on allowable Claim 1, are allowable, without more. New Claim 25 is allowable for the same reasons as Claims 1 and 2.

Claim 6 is a method claim. The same deficiencies in the references as argued above for Claims 1 and 2 are relevant here. The Applicants cannot relate the assertion that the detector (220) also measures the audible hearing distance to any aspect of the claim and respectfully request that the Examiner provide a clarification.

Claims 7-12, and 21-24 are allowable as claims dependent on an allowable claim.

Claims 3, 14, and 17-18 were rejected as being unpatentable over Davies in view of Rodriguez and further in view of Omata et al. (US 6,624,758; "Omata"). Claims 5 and 20 were rejected as being unpatentable over Davies in view of Rodriguez and further in view of Bloch et al. (US 7,954,594; "Bloch"). Claims 10 and 21 were rejected as being unpatentable over Davies in view of Rodriguez and further in view of Walter (US 6,275,141; "Walter"). Claims 11 and 22 were rejected in view of Davies in view of Rodriguez and further in view of Hoehne (US 5,957,776; "Hoehne"). Claims 12 and 23 were rejected as being unpatentable over Davies in view of Rodriguez and further in view of Maloney (US 7,336,174; "Maloney"). Claim 15 was rejected as being unpatentable over Davies in view of Rodriguez and further in view of Serfaty et al. (US 5,722,046; "Serfaty")

With respect of each of the above rejections, the Applicants respectfully submit that nothing is cited in the reference applied so as to overcome the deficiencies in the rejections of Claim 1 or 6, upon which they depend, and the claims are allowable.

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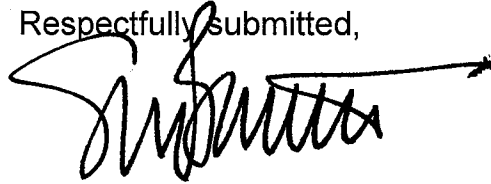
Conclusion

Claims 1-25 are pending.

For at least the reasons set forth above, the Applicants respectfully submit that the pending claims are allowable and look forward to the early issuance of a Notice of Allowance.

The Examiner is respectfully requested to contact the undersigned in the event that a telephone interview would expedite consideration of the application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sid Bennett', with a long horizontal stroke extending to the right.

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